

## **Remarks**

Reconsideration is requested in view of the above amendments and the following remarks.

### **I. Status of claims**

Claims 1-23 and 45-61 are canceled without prejudice or disclaimer. Claims 24, 25, 27, 29, 30, 32, 36, 38, 39 and 41 are amended.

Claims 24-44 are pending.

### **II. Discussion of specification amendments**

The title has been amended by replacing "MASONRY" with "CONCRETE". This change is supported by the original disclosure, for example page 1, line 4. This change was made to clarify that the disclosed invention relates to concrete blocks, including blocks that are used without requiring mortar and blocks that are laid up using mortar between the blocks. The word "masonry" may improperly imply that the described blocks are intended to be laid up using mortar between the blocks. However, as described at page 5, lines 8-14 of the specification, the described invention relates to many types of concrete blocks, including those that do not require the use of mortar to secure the blocks to one another, for example retaining wall blocks which are simply dry stacked in ascending courses, as well as to concrete blocks used in the construction of building walls which generally require the use of mortar between the blocks in order to secure the blocks together. While the National Concrete Masonry Association calls retaining wall blocks "concrete masonry units" on its website, other websites use "masonry" blocks only to denote blocks that are laid up using mortar.

### **III. Discussion of claim amendments**

Claim 24 has been amended to remove the previously added language "and wherein no projection extends into the open bottom of the mold cavity while the flat surface of the pallet is closing the open bottom of the mold cavity". This language was objected to by the Examiner as being new matter.

Claim 24 has also been amended to recite "configured to form the flange of the block". This amendment is supported by the original disclosure, for example page 16, lines 5-7.

Claims 29 and 30 have been amended to recite that the converging side wall portions extend the entire distance across the mold cavity between the two opposed side walls that are adjacent the second side wall. This amendment is supported by the original disclosure, for example page 13, lines 14-28 and Figure 7.

Claims 29 and 30, as well as claims 36 and 39, have been amended to recite the positions of the side wall portions as first and second positions. Claims 32 and 41 have been amended to refer to the first position rather than the angled position.

Claim 36 has been amended to recite that the first converging side wall portion extends across the entire distance of the mold cavity between two opposed side walls that are adjacent the first side wall. This amendment is supported by the original disclosure, for example page 13, lines 14-28 and Figure 7.

Claim 39 has been amended in similar fashion to claim 36 and is supported in the same manner as claim 36.

The claims have also been amended to replace the word "masonry" with the word "concrete" where appropriate or to remove the word "masonry" where appropriate for the reasons provided above for the amendment of the title.

Claims 1-23 and 45-61 have been canceled. Applicants reserve the right to pursue identical claims in a later filed application.

#### **IV. Restriction requirement**

With respect to the restriction requirement, Applicants affirm the election of Group II, claims 24-44, directed to a mold assembly, with traverse. Applicants do not wish to be bound by the Examiner's stated reasoning in requiring restriction. In addition, Applicants respectfully submit that examination of Groups I and III can be conducted together with Group II without undue burden on the Examiner.

However, non-elected claims 1-23 and 45-61 have been canceled without prejudice or disclaimer in order to expedite prosecution.

#### **V. 35 USC 112 rejection**

Claims 24-35 are rejected under 35 USC 112, first paragraph, as reciting subject matter not supported by the original disclosure. The language objected to by the Examiner has been

removed from claim 24 in order to expedite prosecution. Applicants do not concede that the language was not supported by the specification.

Withdrawal of the rejection is requested.

## **VI. Applicant's invention**

Independent claim 26 recites a mold assembly for use in forming a pre-cured dry cast concrete block having, among other features, an integral flange extending below the lower face of the block. The mold assembly includes, among other features, a side wall that has an undercut adjacent the open mold bottom that, along with a flat surface of a pallet that closes the entire open bottom of the mold cavity, defines a flange-forming subcavity of the mold cavity configured to form the flange of the block.

As described on page 16 of the patent application, the flange-forming subcavity has a shape that results in the formation of the flange 26 on the block 10 (page 16, lines 5-7). At least this feature of claim 26 is not disclosed in DE 196 34 499.

In addition, independent claim 36 recites a mold assembly for use in forming a pre-cured dry cast concrete block. The mold assembly includes, among other features, a first side wall having a first converging side wall portion that extends across the entire distance of the mold cavity between two opposed side walls that are adjacent the first side wall.

An advantage of this construction is that the entire surface of the resulting concrete block that is shaped by the first converging side wall portion converges. At least this feature of claim 36 is not disclosed in DE 196 34 499.

## **VII. Rejection under 35 USC 102(b)**

Claims 24, 28-32 and 34-35 are rejected under 35 USC 102(b) as being anticipated by DE 196 34 499 (DE '499). Applicants respectfully traverse this rejection.

DE '499 does not teach or suggest a flange-forming subcavity of the mold cavity configured to form the flange of the block, as recited in claim 24.

The rejection, which appears to equate the plates 3, 4 with the claimed first side wall, asserts that the plate 4 in DE '499 defines an undercut adjacent the bottom of the mold. This is not the case. As described in DE '499, the plate 4 is used to define an undercut 20 in the resulting block (see, e.g., page 8, lines 14-15, page 9, line 5, and page 13, claim 1, of the

enclosed translation; the plates 4 in Figures 1, 3 and 4; and the undercut 20 in dashed lines in Figure 2). The plate 4 itself does not have an undercut, nor does the plate 3 include an undercut as recited in claim 24.

In DE '499, no flange-forming sub-cavity is defined because no flange is formed on the resulting block. Instead, the side walls 3, 4 in DE '499 (especially the side wall 4) are used to define an undercut in the resulting block. This is not the same as a side wall that includes an undercut so as to define, with the pallet surface, a flange-forming subcavity of the mold cavity configured to form the flange of the block.

Therefore, claim 24 is not anticipated by, or obvious in view of, DE '499. Claims 28-32 and 34-35 depend from claim 24 and are patentable along with claim 24 and need not be separately distinguished. By not separately distinguishing the dependent claims, Applicants do not concede the propriety of the rejections thereto, and Applicants reserve the right to file arguments at a later date specifically addressing the dependent claims.

#### **VIII. Rejection under 35 USC 103(a)**

Claims 25-27, 36-41 and 43-44 are rejected under 35 USC 103(a) as being unpatentable over DE '499 in view of US Patent 5,183,616 to Hedrick (Hedrick).

With respect to independent claim 36, DE '499 does not disclose a first converging side wall portion that extends across the entire distance of the mold cavity between two opposed side walls that are adjacent the first side wall.

The plate 4 in DE '499 extends across only a portion of the mold cavity between the opposed plates 2 (as illustrated in Figure 1). It can be seen from Figure 2 in DE '499 that the resulting undercut 20 extends across only a portion of the block (page 9, line 5 of the translation; illustrated in dashed lines in Figure 2).

Hedrick does not remedy the deficiencies of DE '499. The mold in Hedrick does not include a converging side wall portion as recited in claim 36. The mold in Hedrick is for forming rectangular bricks. None of the sides of the bricks are angled, so no portion of any side wall of the Hedrick mold needs to converge.

DE '499 and Hedrick do not teach or suggest a converging side wall portion as recited in claim 36. Therefore, claim 36 is patentable over DE '499 and Hedrick.

Claims 37-41 and 43-44 depend from claim 36 and are patentable along with claim 36 and need not be separately distinguished. By not separately distinguishing the dependent claims, Applicants do not concede the propriety of the rejections thereto, and Applicants reserve the right to file arguments at a later date specifically addressing the dependent claims.

Claims 25-27 depend from claim 24 and are patentable along with claim 24 as discussed in section VII of these remarks, and need not be separately distinguished.

Withdrawal of the rejections is requested.

**IX. Allowable subject matter**

Applicants gratefully acknowledge the indication that claims 33 and 42 contain allowable subject matter. As discussed above, the remaining claims are believed to be allowable as well.

**X. Conclusion**

Applicants believe that the claims now pending in this patent application are in immediate condition for allowance. Favorable consideration is respectfully requested. If any further questions arise, the Examiner is invited to contact Applicants' representative at the number listed below.

Respectfully submitted,

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